

A Balamani a/p Subramaniam & Ors v Malaysia Hindu Sangam

HIGH COURT (SHAH ALAM) — CIVIL SUIT NO BA-24NCC-106-10
OF 2025

B ASMAH MUSA JC
25 NOVEMBER 2025

C *Civil Procedure — Injunction — Application to set aside — State Chairmen of Malaysia Hindu Sangam ('MHS') filed originating summons challenging validity of annual general meeting ('AGM') and removal of State Chairmen — State Chairmen of MHS obtained ex parte injunction restraining MHS from convening Central Council Meeting — MHS applied to set aside ex parte injunction — Whether State Chairmen lacked locus standi — Whether AGM was validly convened and conducted — Whether dismissals of State Chairmen were lawful*

D *— Whether ex parte injunction breached O 29 of Rules of Court 2012 — Whether there was serious issue arose for adjudication — Whether ex parte injunction should be set aside — Rules of Court 2012 O 29*

E The plaintiffs, as the delegates or State Chairmen of Malaysia Hindu Sangam ('MHS') at the material time, had filed originating summons ('the OS') challenging the validity of the 48th Annual General Meeting held on 20 July 2025 ('the 48th AGM'), as well as the legitimacy of the elections conducted during that AGM and the subsequent decisions of the Central Council to

F remove four State Chairmen (the plaintiffs). Subsequently, the plaintiffs obtained an ex parte injunction ('the ex parte injunction') restraining the defendant from convening its Third Central Council Meeting ('CCM'). The defendant then filed the present application to set aside the ex parte injunction on the grounds of material non-disclosure, defective undertaking, absence of a

G serious issue, and lack of locus standi. The defendant argued that the plaintiffs' action was unsustainable because the 48th AGM was convened in accordance with the Articles of Association ('the AOA'), and because the plaintiffs, as co-opted members, did not possess the legal standing to bring the OS. The issues for the court's determination were as followed: (a) whether the plaintiffs

H possessed locus standi to bring the OS; (b) whether the decision in *Malaysia Hindu Sangam & Ors v Mohan a/l Shanmugam & Ors* [2023] MLJU 1617 ('the 2023 case') applied and governed the plaintiffs' status; (c) whether the 48th AGM was validly convened and conducted — in this regard, the plaintiffs submitted that the AGM notice was defective, proxies were manipulated,

I legitimate delegates were excluded, and the election was 'ambushed'; (d) whether the dismissal of State Chairmen was lawful; (e) whether the ex parte injunction was obtained in compliance with O 29 of the Rules of Court 2012 ('the ROC 2012'); (f) whether the ex parte injunction should be set aside; and (g) what final orders ought to be made.

Held, setting aside the ex parte injunction, dismissing the OS, and awarding costs of RM3,000 to the defendant:

- (1) In the 2023 case, the High Court held that State Chairmen were co-opted members, not elected officers, and that they did not enjoy automatic voting rights or legal authority to challenge the organisation unless expressly authorised. The plaintiffs attempted to distinguish the present case by claiming that in the present case, they challenged AGM irregularities rather than their appointments. This distinction was artificial. Their standing to sue depended on their legal status, which had already been clearly defined. As co-opted members serving at the discretion of the Central Council, they did not possess standing to bring actions of this nature. The court therefore held that the plaintiffs lacked locus standi, and the action was unsustainable for this reason alone (see paras 18–21). A
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- (2) In relation to the notice of the 48th AGM, the court found that: (a) the requirement of publication of notice in a national newspaper under the AOA was satisfied and there was no requirement for personal service; (b) the plaintiffs attended the AGM, as such, they suffered no prejudice; (c) article 19 permitted proxy voting and the Circular of 16 July 2025 merely clarified implementation; and (d) a neutral panel examined the delegates and the plaintiffs participated without protest. The court further found that the plaintiffs adduced no credible evidence of legitimate delegates being excluded (see paras 28–32). D
E
- (3) In relation to the timing of election, the decision to bring forward the election was openly made and approved by the majority. The plaintiffs voted. They could not now challenge the process simply because the outcome was unfavourable. The plaintiffs' challenge to the timing of the election was barred by the rule in *Foss v Harbottle* (1843) 2 Hare 461; 67 ER 189. Courts would not interfere with intra vires decisions of the majority unless illegality or fraud was proven. No such illegality had been demonstrated in the present case (see paras 33–35). F
G
- (4) With respect to the removal of the State Chairmen, the letters of appointment expressly stated that the position was held 'at the pleasure of the Central Council'. Article 12 authorised such removal and there was no requirement for hearing or cause. The plaintiffs accepted these terms, as such, the dismissals were lawful. The power to remove co-opted members was validated by the 2023 case which held that such positions were not proprietary rights protected by law. They were held at the discretion of the Council. Therefore, the dismissals were lawful (see paras 38–41). H
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- (5) The duty of full and frank disclosure in ex parte proceedings was strict and uncompromising. Order 29 of the ROC 2012 imposed a strict duty

- A of full and frank disclosure. Any material fact, including adverse legal authority, must be disclosed. In the present case, the plaintiffs failed to disclose: (a) the 2023 case; (b) the delegate verification process; (c) their own participation in the election; and (d) correspondence contradicting their allegations. Further, the plaintiff did not draw the court's attention to AOA provisions supporting the defendant. The plaintiff had also failed to furnish a proper undertaking as to damages. These omissions were fatal (see paras 22, 25, 42–43, 45 & 47).
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- C (6) Based on the above, the court found that the plaintiff lacked standing, the AGM was valid and the dismissal of the state chairmen were lawful, as such, there was no serious issue arose. Further, the court found that plaintiffs' alleged harm was speculative but the defendant's harm was real and severe because the injunction had paralysed a national religious organisation, disrupted festival preparations, and impeded community functions. Such prejudice was disproportionate and legally unacceptable. In this regard, damages could compensate the plaintiffs but could not compensate an entire national organisation for paralysis. The balance of convenience overwhelmingly favoured the defendant (see paras 49–50, 52–53 & 66).
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[Bahasa Malaysia summary]

- F Plaintiff-plaintiff, sebagai perwakilan atau Pengerusi Cawangan Negeri bagi Malaysia Hindu Sangam ('MHS') pada masa yang material, telah memfailkan saman pemula ('SP tersebut') bagi mencabar keabsahan Mesyuarat Agung Tahunan ke-48 yang diadakan pada 20 Julai 2025 ('AGM ke-48'), serta keabsahan pemilihan yang dijalankan semasa AGM tersebut dan keputusan Majlis Tertinggi yang berikutnya untuk memecat empat Pengerusi Cawangan Negeri (plaintif-plaintif). Seterusnya, plaintif-plaintif memperoleh injunksi ex parte ('injunksi ex parte tersebut') yang menghalang defendan daripada mengadakan Mesyuarat Majlis Tertinggi Ke-tiga ('CCM').
- G Defendan kemudian memfailkan permohonan semasa untuk mengenenepikan injunksi ex parte tersebut atas alasan ketidakdedahan material, aku janji ganti rugi yang cacat, ketiadaan isu serius, dan ketiadaan locus standi. Defendan berhujah bahawa tindakan plaintif-plaintif tidak mampan kerana AGM ke-48 tersebut telah diadakan mengikut Artikel Persatuan ('AOA'), dan kerana plaintif-plaintiff, sebagai ahli yang dikooptasi, tidak mempunyai kedudukan undang-undang untuk memfailkan SP tersebut. Isu-isu untuk penentuan mahkamah adalah seperti berikut: (a) sama ada plaintif-plaintiff mempunyai locus standi untuk memfailkan SP tersebut; (b) sama ada keputusan dalam kes
- H *Malaysia Hindu Sangam & Ors v Mohan a/l Shanmugam & Ors* [2023] MLJU 1617 ('kes 2023 tersebut') terpakai dan mengawal status plaintif-plaintif; (c) sama ada AGM ke-48 tersebut telah diadakan dan dijalankan secara sah — dalam hal ini, plaintif-plaintif berhujah bahawa notis AGM tersebut adalah cacat, proksi-proksi telah dimanipulasi, perwakilan-perwakilan yang sah telah
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dikecualikan, dan pemilihan tersebut telah di ‘ambushed’; (d) sama ada pemecatan Pengerusi Cawangan Negeri adalah sah; (e) sama ada injunksi ex parte tersebut diperoleh selaras dengan A 29 Kaedah-Kaedah Mahkamah 2012 (‘KKM 2012’); (f) sama ada injunksi ex parte tersebut harus diketepikan; dan (g) apakah perintah muktamad yang harus dibuat.

Diputuskan, mengenyepikan injunksi ex parte tersebut, menolak SP tersebut, dan mengawardkan kos sebanyak RM3,000 kepada defendan:

- (1) Dalam kes 2023 tersebut, Mahkamah Tinggi memutuskan bahawa Pengerusi Cawangan Negeri adalah ahli yang dilantik, bukan pegawai yang dipilih, dan mereka tidak mempunyai hak mengundi automatik atau kuasa undang-undang untuk mencabar organisasi tersebut melainkan dibenarkan secara nyata. Plaintiff-plaintif cuba membezakan kes semasa dengan mendakwa bahawa dalam kes semasa, mereka mencabar ketidakaturan AGM tersebut dan bukannya pelantikan mereka. Perbezaan ini adalah artifisial. Kedudukan mereka untuk menyaman bergantung pada status undang-undang mereka, yang telah ditakrifkan dengan jelas. Sebagai ahli yang dilantik yang berkhidmat mengikut budi bicara Majlis Tertinggi, mereka tidak mempunyai kedudukan untuk membawa tindakan seperti ini. Oleh itu, mahkamah memutuskan bahawa plaintiff-plaintif tidak mempunyai locus standi, dan tindakan semasa tidak mampan atas sebab ini sahaja (lihat perenggan 18–21).
- (2) Berhubung dengan notis AGM ke-48 tersebut, mahkamah mendapati bahawa: (a) keperluan penerbitan notis dalam akhbar nasional di bawah AOA telah dipenuhi dan tiada keperluan untuk penyampaian peribadi; (b) plaintiff-plaintif menghadiri AGM tersebut, oleh itu, mereka tidak mengalami apa-apa prejudis; (c) perkara 19 membenarkan pengundian proksi dan Pekeliling 16 Julai 2025 hanya menjelaskan pelaksanaannya; dan (d) panel neutral telah memeriksa perwakilan-perwakilan dan plaintiff-plaintif menyertai tanpa bantahan. Mahkamah selanjutnya mendapati bahawa plaintiff-plaintif tidak mengemukakan keterangan yang boleh dipercayai bahawa perwakilan-perwakilan sah telah dikecualikan (lihat perenggan 28–32).
- (3) Berhubung dengan masa pemilihan, keputusan untuk mempercepatkan pemilihan telah dibuat secara terbuka dan diluluskan oleh majoriti. Plaintiff-plaintif telah mengundi. Mereka kini tidak boleh mencabar proses tersebut hanya kerana keputusannya tidak memihak kepada mereka. Cabaran plaintiff-plaintif terhadap masa pemilihan tersebut telah dihalang oleh peraturan dalam *Foss v Harbottle* (1843) 2 Hare 461. Mahkamah tidak akan campur tangan dengan keputusan intra vires majoriti melainkan jika kepenyalahan atau fraud terbukti. Tiada

- A kepenyalahan sedemikian telah ditunjukkan dalam kes semasa (lihat perenggan 33–35).
- (4) Berkenaan dengan pemecatan Pengerusi Cawangan Negeri, surat pelantikan dengan jelas menyatakan bahawa jawatan tersebut dipegang
- B ‘at the pleasure of the Central Council’. Perkara 12 membenarkan pemecatan tersebut dan tiada keperluan untuk pendengaran atau sebab. Plaintiff-plaintiff menerima terma-terma ini, oleh itu, pemecatan tersebut adalah sah di sisi undang-undang. Kuasa untuk memecat ahli yang dilantik telah disahkan oleh kes 2023 tersebut yang memutuskan bahawa
- C jawatan tersebut bukanlah hak milik yang dilindungi oleh undang-undang. Ia dipegang mengikut budi bicara Majlis Tertinggi. Oleh itu, pemecatan tersebut adalah sah di sisi undang-undang (lihat perenggan 38–41).
- D (5) Kewajipan pendedahan penuh dan terus terang dalam prosiding *ex parte* adalah ketat dan tidak berkompromi. Aturan 29 KKM 2012 mengenakan kewajipan pendedahan penuh dan terus terang yang ketat. Apa-apa fakta penting, termasuk autoriti undang-undang yang bertentangan, harus didedahkan. Dalam kes semasa, plaintiff-plaintiff
- E gagal mendedahkan: (a) kes 2023 tersebut; (b) proses pengesahan perwakilan; (c) penyertaan mereka sendiri dalam pemilihan tersebut; dan (d) surat-menyurat yang bercanggah dengan dakwaan mereka. Tambahan pula, plaintiff-plaintiff gagal menarik perhatian mahkamah kepada peruntukan AOA yang menyokong defendan. Plaintiff-plaintiff
- F juga gagal memberikan aku janji yang sewajarnya mengenai ganti rugi. Peninggalan-peninggalan ini adalah memudaratkan (lihat perenggan 22, 25, 42–43, 45 & 47).
- (6) Berdasarkan perkara di atas, mahkamah mendapati bahawa plaintiff tidak mempunyai locus standi, AGM tersebut adalah sah dan pemecatan
- G pengerusi cawangan negeri adalah sah, oleh itu, tiada isu serius yang timbul. Tambahan pula, mahkamah mendapati bahawa dakwaan kemudaran plaintiff-plaintiff adalah spekulatif tetapi kemudaran defendan adalah nyata dan teruk kerana injuksi tersebut telah melumpuhkan sebuah organisasi keagamaan kebangsaan, mengganggu persiapan perayaan, dan menghalang fungsi komuniti. Prejudis sedemikian adalah tidak seimbang dan tidak boleh diterima secara sah. Dalam hal ini, ganti rugi boleh memberi pampasan kepada
- H plaintiff-plaintiff tetapi tidak boleh memberi pampasan kepada seluruh organisasi kebangsaan atas kelumpuhan yang dialami. Imbangan kemudahan amat memihak kepada defendan (lihat perenggan 49–50, 52–53 & 66).]
- I

Cases referred to

- American Cyanamid Co v Ethicon Ltd* [1975] AC 396, HL (refd)
Bakmawar Sdn Bhd v Malayan Banking Bhd [1992] 1 MLJ 67, HC (refd)
Delimec Hygiene Sdn Bhd v EMIC Chemicals [2001] 5 MLJ 186, HC (refd)
Foss v Harbottle (1843) 2 Hare 461 (refd)
Haji Wan Habib Syed Mahmud v Datuk Patinggi Haji Abdul Taib Mahmud & Anor [1986] 2 MLJ 198, SC (refd)
Harben v Phillips (1883) 23 Ch D 14, CA (refd)
Kong Thai Sawmill (Miri) Sdn Bhd, Re; Kong Thai Sawmill (Miri) Sdn Bhd & Ors v Ling Beng Sung [1978] 2 MLJ 227; [1978] 1 LNS 170, PC (refd)
Lord v Governor & Co of Copper Mines (1848) 2 Ph 740 (refd)
Malaysia Hindu Sangam & Ors v Mohan all Shanmugam & Ors [2023] MLJU 1617, HC (refd)
Motor Sports International Ltd (servants or agents at Federal Territory of Labuan) & Ors v Delcont (M) Sdn Bhd [1996] 2 MLJ 605, CA (refd)
Kosma Palm Oil Mill Sdn Bhd & Ors v Koperasi Serbausaha Makmur Bhd [2004] 1 MLJ 257, FC (refd)
Siporex Trade SA v Comdel Commodities Ltd [1986] 2 Lloyd's Rep 428, QBD (refd)
Syarikat Tungaring Kilang Papan Sdn Bhd v Sabah Forest Industries Sdn Bhd & Ors [1990] 2 MLJ 38, HC (refd)
Tan Bun Teet & Ors v Menteri Sains, Teknologi dan Inovasi Malaysia & Ors [2013] 3 MLJ 676, CA (refd)

Legislation referred to

- Companies Act 1965 (repealed by Companies Act 2016) s 181
 Rules of Court 2012 O 29

Sutha Jayan Rajoo (Law Chambers of Nithiya Thiahhan) for the plaintiffs.
Vinayah Sri Ram (Rosli Dahlan Saravana Partnership) for the defendant.

Asmah Musa JC:**INTRODUCTION**

[1] This case concerns an internal dispute within Malaysia Hindu Sangam ('MHS'), a company limited by guarantee and the principal national Hindu organisation in Malaysia. The plaintiffs, who claim to be delegates or State Chairmen at the material time, challenge the validity of the 48th Annual General Meeting ('AGM') held on 20 July 2025, as well as the legitimacy of the elections conducted during that AGM and the subsequent decisions of the Central Council.

[2] On 9 October 2025, the plaintiffs obtained an *ex parte injunction* restraining the defendant from convening its third Central Council Meeting

- A ('CCM'). The defendant now applies to set aside that injunction on the grounds of *material non disclosure*, *defective undertaking*, *absence of a serious issue*, and *lack of locus standi*.
- B [3] The defendant further submits that the plaintiffs' action itself is unsustainable because the 48th AGM was convened in accordance with the Articles of Association ('AoA'), and because the plaintiffs, as co-opted members, do not possess the legal standing to bring this suit.
- C [4] After considering all affidavits, documents, submissions, and especially the binding decision in WA-24NCC-827-08 of 2022 ('the 2023 case'), I find that the ex parte injunction was improperly obtained, that the plaintiffs lack locus standi, and that no triable issue arises for the court's intervention.
- D MATERIAL FACTS
- E [5] MHS is governed by the AoA, which prescribes the structure of the organisation, the powers of the AGM, and the composition of the Central Council. Four plaintiffs the first, fifth, ninth, and tenth were appointed as State Chairmen by letters of appointment expressly stating that their positions were held 'at the pleasure of the Central Council'.
- F [6] The 48th AGM was convened on 20 July 2025 following notice published in *The Star* and *Makkal Osai* on 27 June 2025. Issues regarding proxy forms were raised, prompting a Circular dated 16 July 2025 allowing alternative authorisation letters.
- G [7] A three-member verification panel comprising individuals agreed to by both factions validated the delegates.
- H [8] The AGM proceeded, and the election of office bearers was brought forward with majority agreement. The plaintiffs participated fully and voted without objection.
- I [9] On 9 August 2025, the Central Council convened the second CCM and resolved to remove four State Chairmen coincidentally the same four plaintiffs citing behaviour detrimental to the organisation.
- [10] Dissatisfied, the plaintiffs filed this suit on 4 October 2025 and obtained the ex parte injunction on 9 October 2025.

ISSUES FOR DETERMINATION

A

[11] The issues for determination are as follows:

- (a) whether the plaintiffs possess *locus standi* to bring this action;
- (b) whether the 2023 case applies and governs the plaintiffs' status;
- (c) whether the 48th AGM was validly convened and conducted;
- (d) whether the *dismissal of State Chairmen* was lawful;
- (e) whether the *ex parte injunction* was obtained in compliance with O 29 of the ROC;
- (f) whether the injunction should be set aside; and
- (g) what final orders ought to be made.

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THE PLAINTIFFS' SUBMISSIONS

[12] The plaintiffs argue that the AGM notice was defective, proxies were manipulated, legitimate delegates were excluded, the election was 'ambushed', and the dismissal of State Chairmen was unlawful.

E

[13] They assert that an injunction is necessary to preserve the status quo and that O 29 does not bar the granting of interim relief where a serious issue arises.

THE DEFENDANT'S SUBMISSIONS

F

[14] The defendant contends that the plaintiffs concealed material facts particularly the 2023 case when seeking the *ex parte* injunction, rendering the injunction fatally flawed under O 29.

G

[15] The defendant asserts that State Chairmen are *co-opted*, not elected members, and therefore lack the legal standing to challenge organisational decisions.

H

[16] It is submitted that the AGM complied with all procedural requirements, that the dismissals were lawful under article 12, and that the injunction has caused substantial disruption to national religious administration.

I

LOCUS STANDI

[17] The first and most fundamental question is whether the plaintiffs have locus standi.

- A [18] In the 2023 case *Malaysia Hindu Sangam & Ors v Mohan a/l Shanmugam & Ors* [2023] MLJU 1617, the High Court held that State Chairmen are *co-opted members*, not elected officers, and that they do not enjoy automatic voting rights or legal authority to challenge the organisation unless expressly authorised.
- B [19] The plaintiffs attempted to distinguish the present case by claiming that they now challenge AGM irregularities rather than their appointments. This distinction is artificial. Their standing to sue depends on their legal status, which has already been clearly defined.
- C [20] As co-opted members serving at the discretion of the Central Council, they do not possess standing to bring actions of this nature.
- D [21] I therefore hold that the plaintiffs *lack locus standi*, and the action is unsustainable for this reason alone.
- MATERIAL NON-DISCLOSURE — FAILURE TO DISCLOSE THE 2023 CASE
- E [22] The duty of full and frank disclosure in *ex parte* proceedings is strict and uncompromising. This principle has been repeatedly emphasised in a line of authorities:
- F (a) *Motor Sports International Ltd (servants or agents at Federal Territory of Labuan) & Ors v Delcont (M) Sdn Bhd* [1996] 2 MLJ 605 — strict compliance required; failure is fatal;
- (b) *Siporex Trade SA v Comdel Commodities Ltd* [1986] 2 Lloyd's Rep 428 — any material omission requires discharge of injunction;
- G (c) *Delimec Hygiene Sdn Bhd v EMIC Chemicals* [2001] 5 MLJ 186 — disclosure must be explicit; cannot rely on inference; and
- (d) *Bakmawar Sdn Bhd v Malayan Banking Bhd* [1992] 1 MLJ 67 — adverse facts must be highlighted, not merely mentioned.
- H [23] The plaintiffs' suppression of the 2023 *High Court decision* is a grave breach of this duty, warranting immediate setting aside of the *ex parte* injunction.
- I [24] The plaintiffs failed to disclose the 2023 case when applying for the *ex parte* injunction. They were personally involved in that litigation, and their failure to bring it to the court's attention cannot be inadvertent.
- [25] Order 29 imposes a *strict* duty of full and frank disclosure. Any material

fact, including adverse legal authority, must be disclosed.

A

[26] The 2023 case is directly relevant to standing, the validity of dismissals, and the governance structure of MHS.

[27] The plaintiffs' omission misled the court and rendered the injunction procedurally defective. This failure alone is sufficient to set aside the injunction.

B

VALIDITY OF THE 48TH AGM

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Notice

[28] The AoA requires publication of notice in a national newspaper. This requirement was satisfied. There is no requirement for personal service.

D

[29] The plaintiffs attended the AGM. They suffered no prejudice.

[30] Article 19 permits proxy voting. The Circular of 16 July 2025 merely clarified implementation.

E

[31] A neutral panel examined the delegates. The plaintiffs participated without protest.

Exclusion of delegates

F

[32] The plaintiffs adduced no credible evidence of legitimate delegates being excluded.

Timing of election

G

[33] The decision to bring forward the election was openly made and approved by the majority.

H

[34] The plaintiffs voted. They cannot now challenge the process simply because the outcome was unfavourable.

[35] The plaintiffs' challenge to the timing of the election is barred by the rule in *Foss v Harbottle* (1843) 2 Hare 461, applied in Malaysia in *Re Kong Thai Sawmill (Miri) Sdn Bhd; Kong Thai Sawmill (Miri) Sdn Bhd & Ors v Ling Beng Sung* [1978] 2 MLJ 227; [1978] 1 LNS 170. The courts will not interfere with intra vires decisions of the majority unless illegality or fraud is proven. No such illegality has been demonstrated.

I

A [36] As precisely explained by Lord Wilberforce in *Re Kong Thai Sawmill (Miri) Sdn Bhd; Kong Thai Sawmill (Miri) Sdn Bhd & Ors v Ling Beng Sung* (PC):

B *The mere fact that one or more of those managing the company possess a majority of the voting powers and, in reliance upon that power, make policy or executive decisions which the complainant does not agree is not enough. Those who take interest in companies limited by shares have to accept majority rule.*

C [37] The rule in *Foss v Harbottle* has laid down a well known principle which has resulted from the refusal of the court to interfere in the management of a company at the instance of a minority of its members who are dissatisfied with the conduct of the company affairs by the majority or by the board of directors. The court, under the pretext of minority protection under s 181, should be slow from interfering or enquiring into the desirability or wisdom of the acts of those who control or manage the company's affairs. It cannot be the function of the court to take management decisions and to substitute its opinions for those of the directors and the majority of the members. If the thing complained of is a thing which in substance the majority of the company are entitled to do in accordance with the relevant rules, and regulations then it is only prudent that a meeting of the members be called and ultimately let the majority get their wishes. The justification for the rule is the need to preserve the right of the majority to decide how the company's affairs shall be conducted (see: *Lord v Governor & Co of Copper Mines* (1848) 2 Ph 740 at p 751 and *Harben v Phillips* [1883] 23 Ch D 14 at p 39 — per Cotton LJ).

F DISMISSAL OF STATE CHAIRMEN

[38] The letters of appointment expressly state that the position is held 'at the pleasure of the Central Council'. Article 12 authorises such removal.

G [39] There is no requirement for hearing or cause.

[40] The plaintiffs accepted these terms; the dismissals were therefore lawful.

H [41] The power to remove co-opted members is validated by *Malaysia Hindu Sangam v Mohan*, which held that such positions are not proprietary rights protected by law. They are held at the discretion of the Council. Therefore, the dismissals were lawful.

I ORDER 29 ANALYSIS

Full and frank disclosure

[42] The plaintiffs failed to disclose:

- (a) the 2023 case; A
- (b) the delegate verification process;
- (c) their own participation in the election; and
- (d) correspondence contradicting their allegations. B

[43] This omission is fatal.

[44] Authorities emphasise strictness of the duty as decided in *Kosma Palm Oil Mill Sdn Bhd & Ors v Koperasi Serbausaha Makmur Bhd* [2004] 1 MLJ 257 — strict disclosure is mandatory. C

Disclosure of possible defences

[45] The plaintiffs did not draw the court's attention to AoA provisions supporting the defendant. D

Undertaking as to damages

[46] The plaintiffs merely stated that they were 'prepared to furnish an undertaking', which is not a valid undertaking. E

[47] The failure to furnish a proper undertaking is fatal under Malaysian law. The Court of Appeal in *Tan Bun Teet & Ors v Menteri Sains, Teknologi dan Inovasi Malaysia & Ors* [2013] 3 MLJ 676 held that: F

- (a) an express undertaking is mandatory; and
- (b) evidence of financial ability is required.

[48] The plaintiffs' statement that they were 'prepared to furnish an undertaking' does not meet any of these legal requirements. G

Serious issue to be tried

[49] The plaintiffs lack standing. The AGM was valid. Dismissals were lawful. No serious issue arises. H

Balance of convenience

[50] The injunction has crippled the defendant's operations. The plaintiffs' alleged harm is speculative; the defendant's harm is real and severe. I

[51] Authorities such as *American Cyanamid Co v Ethicon Ltd* [1975] AC

- A 396, which holds that an injunction should not be granted where the alleged harm is speculative or where damages would be an adequate remedy, *Haji Wan Habib Syed Mahmud v Datuk Patinggi Haji Abdul Taib Mahmud & Anor* [1986] 2 MLJ 198, which confirms that wider public impact is a relevant consideration in assessing the balance of convenience, and *Syarikat Tungaring Kilang Papan Sdn Bhd v Sabah Forest Industries Sdn Bhd & Ors* [1990] 2 MLJ 38, which requires applicants to demonstrate real and not merely hypothetical harm, collectively support the conclusion that the injunction in this case having paralysed a national religious organisation, disrupted festival preparations, and impeded essential community functions inflicts disproportionate and legally unacceptable prejudice on the defendant.
- B
- C

[52] Here, the injunction paralysed a national religious organisation, disrupted festival preparations, and impeded community functions. Such prejudice is disproportionate and legally unacceptable.

- D
- Adequacy of damages*

- E [53] Damages can compensate the plaintiffs but cannot compensate an entire national organisation for paralysis.

[54] Consistent with *American Cyanamid*, damages are adequate for the plaintiffs but wholly inadequate for the defendant, whose community-wide functions were paralysed.

- F CREDIBILITY ASSESSMENT

[55] The plaintiffs participated fully in the AGM and election and only challenged it after losing.

- G [56] Their non-disclosure was deliberate.

[57] The defendant's evidence is supported by documents and neutral panel minutes.

- H JUDICIAL RESTRAINT IN ORGANISATIONAL DISPUTES

[58] The courts intervene in voluntary associations only where illegality or breach of the constitution is proven.

- I [59] This case is driven by internal political dissatisfaction rather than a breach of law.

[60] The Malaysian courts' application of the *Foss v Harbottle* rule (*Re Kong*

Thai Sawmill); reinforces that the court should not intervene in voluntary associations absent clear illegality. No such illegality is established here.

A

SYNTHESIS OF FINDINGS

[61] The plaintiffs lack locus standi.

B

[62] The 48th AGM was validly convened and conducted.

[63] The dismissals were lawful under article 12.

C

[64] The injunction breached O 29 requirements.

[65] No serious issue arises for adjudication.

D

[66] The balance of convenience overwhelmingly favours the defendant.

FINAL ORDERS

[67] *The ex parte injunction dated 9 October 2025 is hereby set aside.*

E

[68] *The plaintiffs' originating summons dated 4 October 2025 is dismissed* for lack of locus standi, absence of illegality, and failure to demonstrate any prima facie case.

F

[69] *Declarations:*

(a) the 48th AGM of 20 July 2025 is valid and lawful;

(b) the elections held at the AGM are valid;

G

(c) all Central Council Meetings held thereafter are valid; and

(d) the removal of the first, fifth, ninth, and tenth plaintiffs as State Chairmen was lawful.

[70] Costs of RM3000 are awarded to the defendant.

H

Ex parte injunction set aside; OS dismissed; costs of RM3,000 awarded to defendant.

Reported by Dzulqarnain Ab Fatar

I